

FILED 06 MAR 23 11:13SUSDC-ORF

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**OTIS RANDELL BYRD, JR.,**

**Civ. No. 05-970-JE**

**Petitioner,**

**ORDER DISMISSING HABEAS  
CORPUS PETITION**

**vs.**

**STATE OF OREGON,**

**Respondent.**

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This matter having come before the Court on the motion of the Petitioner to voluntarily dismiss his habeas corpus petition,

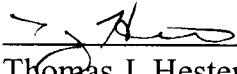
IT IS HEREBY ORDERED that the Petition for a Writ of Habeas Corpus is dismissed without prejudice. In the event that the decision in *Blakely v. Washington*, 124 S.Ct. 2531 (2004), is later made retroactive to cases on collateral review, Petitioner has leave to reopen this case only as to the *Blakely* issues, and the limitations period shall be deemed tolled from June 23, 2005, until sixty days after the date of the decision rendering *Blakely* retroactively

applicable. If *Blakely* is made retroactive and the Petitioner moves to reopen this case during the above-referenced 60-day period, Petitioner may also amend the Petition as of right so as to properly plead all *Blakely*-based claims in this Court.

IT IS SO ORDERED this 22 day of March, 2006.

  
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The Honorable John Jelderks  
U.S. ~~District~~ Magistrate Judge

Submitted by:

  
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Thomas J. Hester  
Attorney for Petitioner

Lynn David Larsen (by consent)  
Attorney for Respondent

CERTIFICATE OF SERVICE